

MANAGEMENT MEMO

NUMBER:

99-11

SUBJECT:

PAYMENTS TO CONTRACTORS

DATE ISSUED:

August 11, 1999

EXPIRES:

August 11, 2000

THE CALIFORNIA PROMPT PAYMENT ACT

REFERENCES:

GOVERNMENT CODE SECTION 927 ET SEQ.

ISSUING AGENCY:

DEPARTMENT OF GENERAL
SERVICES

The California Prompt Payment Act (the Act) (Chapter 916, Statutes of 1998, AB 2275, Kuykendall), which became effective January 1, 1999, requires that state agencies pay properly submitted, undisputed invoices within 45 calendar days of receipt, or automatically calculate and pay the appropriate late payment penalties. The Act is codified in Government Code, Section 927 et seq. The 45 days provided for in the Act includes 30 days for the agency to submit a correct claim schedule to the State Controller, and not more than 15 days for the State Controller to issue the warrant. Except in the event of an emergency (as defined in the Act), the late payment penalties may not be waived, altered, or limited by a state agency, or by any person or business contracting with a state agency. The Act provides for late penalty payments on all payments, however businesses certified as small by the Office of Small Business Certification Resources and recognized nonprofits receive a higher interest penalty. State agencies are encouraged to reference Department of Finance Budget Letter 98-40 for more details about the Act and recent changes to State Administrative Manual Sections 8474 and 8475.

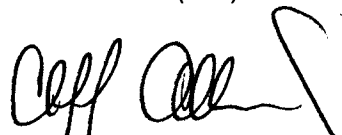
The Department of General Services (DGS) Procurement Division has received requests to prepare contracts that specify a payment cycle time that is longer than 45 days. Although certain language in the Act may appear to permit invoice payment cycle times that extend beyond 45 days, other language clearly expresses the intent of the Legislature that contractors be paid within 45 days. It is the DGS policy to honor the intent of the legislation. Therefore, requests to lengthen the time it takes to pay contractors beyond 45 days will not be approved. Likewise, the Office of Legal Services will generally not approve contracts with payment periods longer than 45 days.

NEW REPORTING REQUIREMENT

Section 927.9(a) of the Prompt Payment Act requires agencies to, on an annual basis and within 90 days following the end of each fiscal year, provide the Director of General Services with a report on late payment penalties that were paid by the state agency as required by the Act. In addition, agencies are encouraged to provide a description of any relevant performance measures or other pertinent information regarding planned improvements.

Please direct any questions regarding this report to Lea Fox at (916) 323-0802. Please send your completed form (attached) no later than September 30, 1999 to the DGS Procurement Division at the address below.

- Department of General Services
Prompt Payment Quality Assurance
Procurement Division
1823 14th Street
IMS Code B-17
Sacramento, CA 95814
FAX: (916) 327-7592



CLIFF ALLENBY, Interim Director
Department of General Services

Attachment

**LATE PAYMENT
PENALTIES PAID**